

# Minutes

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY  
Louisiana Agricultural Commodities Commission  
Veterans' Memorial Auditorium  
5825 Florida Blvd.  
Baton Rouge, LA 70806  
May 29, 2009  
9:30 a.m.

I. Call to Order

Mr. Robert Hanks called the meeting to order at 9:30 a.m.

II. Roll Call and Declaration of Quorum

Present

Mr. E. Lee Carter      Mr. Filmore Bordelon  
Mr. Keith Hensgens      Mr. Kevin Adams  
Mr. Kenny Self  
Mr. Robert Hanks  
Mr. Ryan Ellington

Absent

Commissioner Mike Strain  
Mr. Donald Zaunbrecher

There were seven (7) members present at the meeting.

Staff Members Present

Director of the Louisiana Agricultural Commodities Commission, Ashley Dupree  
Assistant Commissioner, Benjy Rayburn  
Louisiana Department of Agriculture & Forestry Attorney, Marvin Montgomery  
Assistant Director of the Louisiana Agricultural Commodities Commission, Kyra Holden  
Assistant Division Director, Terrel Castille  
Auditor, Billy Benton  
Auditor Director, Mark Tillman  
Administrative Assistant IV, Gail Moutz

III. Adoption of Minutes - March 26, 2009

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Kevin Adams to approve the minutes as read. The motion carried unanimously.

IV. Consideration of License Applications for Approval:  
(Renewal Applications)

Mrs. Ashley Dupree reported on the status of the license applications. She stated that the Louisiana Agricultural Commodities Commission has received and processed approximately fifty applications to date. Approximately 16 applications are currently being processed. Nine applications were received after the April 30 deadline. Eight licensees have not yet sent in any application or correspondence at all.

Mrs. Dupree explained to the Commission that the statutory deadline for the applications was April 30, 2009, which fell on a Thursday. Mrs. Dupree stated the Office of Management and Finance actually receives, opens, and date stamps the applications due to checks being involved. She further stated Agro- Consumer Services accepts the Office of Management and Finance's date received as the official date for the material being opened and received. Mrs. Dupree stated that due to processing of the paperwork, Agro- Consumer Services may not receive the applications from one to two days after receipt by Office of Management & Finance so a decision was made to allow the applicants a grace period of two days, Friday and the following Monday. She stated that after May 5, 2009, the applications were considered late.

Mrs. Dupree informed the Commission there were two issues regarding some of the applications that needed discussion and asked the Commission for direction on how to proceed.

Mrs. Dupree stated the following eight companies did not send in renewal applications, any information or correspondence:

DeBruce Grain, Inc.  
Hollybrook Enterprises, LLC  
Louisiana Cotton Warehouse Company  
Pioneer Farmers, Co-op  
PJS, Incorporated  
The Scoular Company  
Signia Cotton, Co-op  
The Seam, LLC

Mrs. Dupree reported that she spoke with a representative of Signia Cotton, Co-op who felt it was not necessary to be licensed as the company was getting rid of inventory and was not going to purchase any more cotton from farmers.

Mr. Robert Hanks, Vice Chairman, recommended that a letter be sent to those applicants stating that if they have not sent their applications in by June 15, 2009, it will be assumed that the company is not renewing its license.

Mr. Billy Benton, Louisiana Department of Agriculture & Forestry's auditor, reported Signia Cotton, Co-op has not paid the farmers from last year and did not expect to pay them until September of 2009, which would put them into the new licensing year. Mrs. Dupree stated Signia Cotton, Co-op participates in the Grain and Indemnity Fund and if Signia Cotton, Co-op is not licensed by the Louisiana Department of Agriculture & Forestry, the department will have no recourse to ensure that the farmers are paid.

Mr. Robert Hanks agreed that if the Louisiana Department of Agriculture & Forestry does not receive any correspondence or application from Signia Cotton, Co-op and the company continues to operate without a license then it would be appropriate to call for an Adjudicatory Hearing. He further stated that this would pertain to any other entity that operates without a license.

Mrs. Dupree stated that she would send out letters to the nine companies that sent in applications after May 5, 2009 informing them that additional information is required in the application. She will also inform the companies that the additional information must be submitted to the Louisiana Agricultural Commodities Commission staff by June 15, 2009.

Mrs. Dupree informed the Louisiana Agricultural Commodities Commission that Mr. Marvin Montgomery, General Counsel for the Louisiana Department of Agriculture & Forestry, would explain the options the Commission can take with respect to companies filing late. He explained to the Commission members that the licensing period is statutorily set from July 1<sup>st</sup> to June 30<sup>th</sup> of each year. He stated the regulations provide that the deadline for renewal of the applications is April 30<sup>th</sup> of each year.

Mr. Montgomery stated there is no statutory provision for charging a late fee for failure to timely file an application for renewal. He advised that the only solution for penalizing a company that files an application late is by charging them with a violation of the regulation and notifying the company to appear before an adjudicatory hearing. He explained that a hearing officer would be appointed by the Attorney General's office. The Louisiana Department of Agriculture & Forestry would have to present its case against the company and the company would have the right to present its evidence. He stated the Louisiana Agricultural Commodities Commission would decide whether the company is in violation and how much of a penalty to impose. Mr. Montgomery stated that the violation imposed can be up to \$1,000 per violation with each day being a violation.

Mr. Montgomery advised the Commission that there can be a flexible policy, whereas, if a company is late two consecutive years, the company can be brought before the Louisiana Agricultural Commodities Commission. A second possibility is if the company continues to file late, a warning letter can be sent stating if the company is in violation of being late again it could possibly be brought before the Commission for an adjudicatory hearing. Mr. Montgomery also suggested that the Louisiana Agricultural Commodities Commission could request legislation next year regarding late fees for those that file late.

Ms. Kyra Holden, Assistant Director, stated that she has stressed to the companies that have incomplete information to at least send in their applications by April 30<sup>th</sup> and the staff will work with them to obtain any remaining information.

Mr. Montgomery emphasized that it was very important that these time limits be observed to allow the staff time to process the applications so the Commission could review and approve them. His suggestion to the staff was to send a warning letter to all of the companies that if they filed late again it would be possible that the applicants be subject to an adjudicatory hearing with penalties of up to \$1000 for each violation per day with each day being a violation.

Mr. Montgomery stated it is also necessary for the Louisiana Department of Agriculture & Forestry staff to have enough flexibility and time to make decisions whether a company that is filing late, has filed in good faith and is attempting to work with the staff to complete their renewal application or if a company is purposely not providing the necessary information in a timely manner.

Mrs. Dupree assured the Commission that the staff will monitor the companies that are not licensed to determine if the companies are continuing to buy from the producers or storing grain.

Mrs. Dupree stated that on Monday, June 1, 2009, a certified letter would be mailed out to the eight companies that have not sent in any information and if she feels it is appropriate, a follow up phone call will be made.

Mrs. Dupree stated at the next meeting, June 29, 2009, she will present the Commission with a copy of the drafted letter sent to the verified late filers.

The Louisiana Agricultural Commodities Commission asked Mrs. Dupree to draft legislation on late fees for the companies that file late. Mrs. Dupree agreed to write the legislation, present it to the Louisiana Agricultural Commodities Commission for approval and obtain permission from Commissioner Mike Strain, DVM to submit as new legislation next year.

A motion was made by Mr. Ryan Ellington and seconded by Mr. Kevin Adams to go into Executive Session. The motion carried unanimously.

A motion was made by Mr. Keith Hensgens and seconded by Mr. Kenny Self to come out of Executive Session. The motion carried unanimously.

A. Cotton Merchant

1. Beltwide Cotton, Co-op.
2. Broadway and Hitt Cotton Co., Inc.
3. Dunavant Enterprises, Inc.
4. Johnston Cotton Co., Inc.
5. Louis Dreyfus Co., d/b/a/ Allenburg Cotton Co.
6. Noble Ellington Cotton Co., Inc.
7. Quality Cotton Co., Inc.
8. Webb Cotton Co., Inc.

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Kenny Self to approve the Cotton Merchant applications, #1 through #5, #7 & #8, subject to the monitoring program, and defer #6 to the next Louisiana Agricultural Commodities Commission meeting. The motion carried unanimously.

A motion was made by Mr. Kenny Self and seconded by Mr. Filmore Bordelon to go into Executive Session. The motion carried unanimously.

A motion was made by Mr. Kevin Adams and seconded by Mr. Filmore Bordelon to come out of Executive Session. The motion carried unanimously.

B. Grain Dealer

1. Bayou Grain and Chemical Corporation
2. Bertrand Rice, LLC
3. Bunge North America, Inc.
4. Bunkie Elevator and Gin, Co.
5. Crews Trading Company, Inc.
6. Delta Gin Company, LLC
7. Farmers Grain Terminal, Inc.
8. Farmers Rice Milling Company, Inc.
9. FGDI, LLC
10. Gulf Rice Milling, Inc.
11. Harrington Rice and Soybean Buyer, Co.
12. Harvest Rice, Inc.
13. Pitre Rice
14. Land O Lakes, Purina Feed LLC
15. Lansing Trade Group, dba Lansing-Louisiana, LLC

16. Louisiana Farm Bureau Marketing Assoc., Inc.
17. Lockeby Rice & Grain, Inc.
18. Pilgrim's Pride Corporation
19. Red River Grain, Inc.
20. Schexnayder Grain
21. James V. Soileau
22. Southwest Rice Mill Co., Inc.

A motion was made by Mr. Lee Carter and seconded by Mr. Keith Hensgens to approve all of the Grain Dealer applications. Grain Dealer applications #2, #5, #11, #13, #18 and #21 were placed in the Monitoring Program. Grain Dealer application #18 is approved subject to electronic monthly monitoring reports in addition to the records being located in Natchitoches, Louisiana. The motion carried with Mr. Filmore Bordelon abstaining from voting on #2 and Mr. Kenny Self abstaining from voting on #16.

A motion was made by Mr. Kenny Self and Mr. Keith Hensgens seconded the motion to go into Executive Session. The motion carried unanimously.

A motion was made by Mr. Kenny Self and seconded by Mr. Ryan Ellington to come out of Executive Session. The motion carried unanimously.

C. Grain Dealer and Warehouse

1. Aaron Duhon Bins, Inc.
2. Crowley Grain Drier, Inc.
3. Holly Ridge Rice & Grain Terminal
4. Kaplan Rice Drier, Inc.
5. Lake Arthur Rice Drier, Inc.
6. Mamou Rice Drier and Warehouse
7. Mowata Rice Drier, Inc.
8. Thornwell Warehouse Assoc.
9. Victory Supply, Inc.
10. Ville Platte Ricer Drier, Inc.

A motion was made by Mr. Filmore Bordelon and seconded by Mr. Kenny Self to approve the Grain Dealer and Warehouse applications #1 through #10 with #2, #9 and #10 to be placed in the Monitoring Program. The motion carried unanimously.

A motion was made by Mr. Keith Hensgens and seconded by Mr. Ryan Ellington to go into Executive Session. The motion carried unanimously.

A motion was made by Mr. Keith Hensgens and seconded by Mr. Kevin Adams to come out of the Executive Session. The motion carried unanimously.

D. Warehouse

1. Dixie Drier, LLC
2. Kinder Drier, LLC
3. Producers Rice Drier, Inc.
4. Vermillion Farmers Co-op Assoc.

A motion was made by Mr. Ryan Ellington and seconded by Mr. Kenny Self to approve the Warehouse applications #1 through 4 and place #4 in the Monitoring Program.

The motion carried with Mr. Keith Hensgens abstaining from voting on #1, and Mr. Filmore Bordelon abstained from voting on #2.

V. Old Business

1. Review of Grain and Cotton Indemnity Fund

Mrs. Dupree reported that the balance of the Grain and Cotton Indemnity Fund is \$216,392.78. She stated the Louisiana Department of Agriculture & Forestry is in the process of advertising for claims to the Grain and Cotton Indemnity Fund. She stated the amount of claims will be approximately \$900,000 depending on the bankruptcy court claims. Mrs. Dupree stated this advertisement will be in the newspaper for three consecutive publications and she will give the Commission a report of the status at the next meeting on the pay out of the funds.

Ms. Holden reported that in March the balance of the Grain and Cotton Indemnity Fund was approximately \$187,000 and should increase considerably in the next few months.

VI. New Business

1. Legislative update

Mrs. Dupree stated that Senate Bill No. 154 which encompasses the changes relative to the Louisiana Agricultural Commodities Commission and changes the quorum from 6 members to 5 members has been introduced. She stated the bill should help the Louisiana Agricultural Commodities Commission conduct business in a more efficient manner. The bill is on the House floor and she anticipates the bill will be taken off the floor next week.

Mr. Benjy Rayburn, Assistant Commissioner of Agro-Consumer Services, reported on the status of the nomination for the replacement for Mr. James Hoppe's position as Chairman of the Louisiana Agricultural Commodities Commission. Mr. Rayburn stated this position is nominated by the American Rice Association and he spoke with Mr. Brian Wild regarding the confirmation process. He stated he has not heard from Mr. Wild since then. Mr. Hanks stated he would contact Mr. Hoppe and Mr. Bordelon replied that he would contact Mr. Hoppe as well.

Mr. Rayburn reported that Commissioner Mike Strain was working diligently on the budget for the Louisiana Department of Agriculture and Mrs. Dupree has been working hard on the legislative team.

Mr. Robert Hanks emphasized the sensitivity of the financial information and the importance of this information being kept strictly confidential and not to be discussed outside of this meeting.

VII. Public Comment

None.

VIII. Date for Next Meeting

The next meeting is scheduled for June 29, 2009 at 9:30 a.m.

IX. Adjournment

A motion was made by Mr. Kenny Self and seconded by Mr. Filmore Bordelon to adjourn the meeting. The motion carried unanimously.